

## EXHIBITH

In The Matter of the Claim of

*ERIC K. MERRING*

against

The Town of Tuxedo Police Department and The Town of Tuxedo

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**NOTICE OF CLAIM**

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TO: Hon. Peter Dolan  
Town Supervisor  
Town of Tuxedo  
Town Hall  
1 Temple Road  
Tuxedo Park, NY 10987

Hon. Elaine Laurent  
Town Clerk  
Town of Tuxedo  
Town Hall  
1 Temple Road  
Tuxedo Park, NY 10987

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PLEASE TAKE NOTICE, that *ERIC K. MERRING* has a claim and hereby makes this claim against the Town of Tuxedo Police Department and the Town of Tuxedo, for damages sustained by him on account of a violation of his rights and civil rights under New York State and Federal Law, and under the New York State and the United States Constitutions, and in support thereof, the claimant states:

I. The post office address of the claimant is 504 Old Mill Road, Southfields, NY 10975.

2. The name and address and telephone number of the attorney for the claimant are Lee David Klein, Esq., 11 Market Street, Suite 204, Poughkeepsie, New York 12601, 845-454-9200.

3. The claim is for personal injuries and damages sustained by *said*

claimant through the actions of certain police officers and members of the Town of Tuxedo Police Department, who acted in violation of the said claimant's rights under New York State and Federal Law and under the New York State and the United States Constitutions, and through the negligence of the Town of Tuxedo, as hereinafter set forth.

4. The time when the claim arose and the time when the injuries hereinafter alleged were sustained were approximately 9:00 a.m., on December 4, 2006. The particular places of the sustaining of the injuries resulting in the claim hereby were on Stone Ridge Road, in the Town of Tuxedo, County of Orange, State of New York, off of south bound Route 17; inside of a Town of Tuxedo Police Department motor vehicle, in route from the aforesaid location to the Town of Tuxedo Police Department headquarters, located at 1075 State Route 17, Town of Tuxedo, New York 10987; and inside the Town of Tuxedo Police Department headquarters.

5. The manner in which said claim arose is as follows:

a. Claimant, possessing a valid New York State driver's license and a valid New York State "carry" pistol permit, was operating his motor vehicle in the Town of Tuxedo on south bound Route 17. A uniformed member of the Town of Tuxedo Police Department, in a marked police vehicle, undertook a vehicle and traffic stop, and the claimant pulled over just past the Duck Cedar Inn on Stone Ridge Road in the Town of Tuxedo. The officer pulled in behind the claimant. The officer, in an angry manner, asked for the claimant's driver's license, registration, and insurance card, and the claimant complied. Claimant advised the officer that he was carrying a duly licensed handgun and that he had it on his person. The officer inquired as to a reason for his being

armed. The claimant advised that he has a full carry permit, and that he was on his way to his employment at a sporting goods store. The officer claimed that this was not a valid reason. The officer made a cellular phone telephone call, and another Town of Tuxedo Police vehicle pulled in behind the claimant with emergency lights flashing. A Town of Tuxedo Police Sergeant approached the vehicle and inquired as to the reason that claimant was carrying his duly licensed handgun. The claimant responded in the same manner that he responded to the previous officer, that he has a full unrestricted license to carry a handgun in New York State, issued by Delaware County, and that he was also on his way to his employment at a sporting good store, which sells firearms. The Sergeant replied that that was not a valid reason. The Sergeant directed the claimant to step out of his vehicle. The claimant asked why. The Sergeant physically took the claimant out of the car and told him to put his hands up. The Sergeant then conducted a search of the claimant's person. The Sergeant removed the handgun from its holster on the person of the claimant. The Sergeant then began to search the claimant, and retrieved a legal folding knife, and claimed it was an illegal knife, claiming that it was a gravity knife, which can be opened by gravity or centrifugal force. The Sergeant then advised the claimant to put his hands behind his back and advised him that he was under arrest. When the claimant inquired on what charge, the Sergeant advised him that he was in possession of a gravity knife, which is illegal in New York State. The claimant was then placed in handcuffs behind his back and placed in the back of the Police Officer's patrol car. Then, without any consent from the claimant, both the Sergeant and the Police Officer conducted an illegal search of the claimant's motor vehicle, retrieving an old stick.

The Sergeant advised the claimant that he was going to be charged for that as well. The Sergeant inquired repeatedly thereafter as to the claimant's valid reason for having a firearm on his person, to which claimant responded repeatedly that he had a full unrestricted license to carry a firearm, in response to which the Sergeant claimed that he did not have a valid reason for being armed. The Sergeant inquired as to whether the claimant had any weapons at his girlfriend's house, and asked him if there were any automatic weapons there, to which the claimant responded in the negative. The Sergeant inquired as to the licensing process in New York State, to which the claimant responded as best as he could. The claimant's vehicle was towed by the Police Department without his permission.

b. The claimant was taken in the Police Officer's motor vehicle to the Town of Tuxedo Police Department.

c. The Police Officer directed the claimant to sit down at a desk. The Sergeant then presented the claimant with a copy of the New York State Penal Law and directed the claimant to read it. The claimant did and advised that it did not apply to him. The Sergeant got angry and told the claimant: "Yes, it fucking does. I've been doing this for eleven (11) years. I know what I am doing. Eight (8) of those years as Sergeant." The claimant removed his gun belt, emptied his pockets, and then the Sergeant directed the claimant to a holding cell. The claimant was then held in a holding cell. The Sergeant repeatedly came to the claimant, inquiring as to the licensing system for handguns in New York State. The Sergeant responded that he did not like guns, that he hated guns, that he hated the fact that the claimant had a gun and that the claimant was

"with the NRA." The claimant responded that the Sergeant had a gun. The Sergeant responded, in sum and substance: "I am a good shot."

d. Approximately twenty (20) minutes later, the Sergeant came, opened the door, and the claimant was subjected to the booking process, including fingerprinting and photographing, and then was seated with the Sergeant for further paperwork regarding arrest processing to be finalized. The Sergeant directed the claimant to post \$100.00 bail. It was only at that time that the Police Officer advised about the speeding ticket, claiming that claimant was going 69 mph in a 55 mph zone, and then the Police Officer yelled loudly at the claimant: "Get out of my office." The claimant was allowed to leave after he had been charged with a violation of Penal Law Section 265.01, criminal possession in the fourth degree, a Class A misdemeanor, and given an appearance ticket for the same, directing him to appear in the Town of Tuxedo Justice Court on December 28, 2006, at 4:30 p.m. Copies of the Information and Appearance Ticket are annexed hereto as Exhibit A. Claimant was also issued a Uniform Traffic Ticket No.: MDT200533K, charging him with Vehicle and Traffic Law Section 1180(b), speed over 55 mph zone, going 72 mph in a 55 mph zone, a traffic infraction. A copy of said Uniform Traffic Ticket is annexed hereto as Exhibit B.

e. On January 25, 2007, before the Hon. Hume Styer, Town of Tuxedo Justice Court, both of the aforesaid charges were resolved as follows: the claimant pleaded guilty to a violation of Vehicle and Traffic Law Section 1201(a), stopping or parking on the pavement, a traffic infraction, and a fine of \$100.00 was imposed, which was paid by the claimant at Court. The charge of criminal possession of

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Section 265.01, was dismissed. A copy of the Certificate of Disposition is annexed hereto as Exhibit C.

6. Claimant was the subject of an unlawful, unwarranted, and illegal detention and arrest, and an unlawful, unwarranted, and illegal search and seizure of his motor vehicle and of his personal property.

7. Claimant suffered the pain and humiliation of publically being taken into police custody; placed in handcuffs; placed in the back of a police vehicle; transported to the Town of Tuxedo Police Department; subjected to the arrest and bookkeeping process; being placed in a holding cell; being required to be fingerprinted and photographed; suffered humiliation and harassment for the repeated inquiries by members of the Town of Tuxedo Police Department regarding the claimant's lawful behavior; suffered being deprived of his personal property with no legal basis in violation of his civil rights pursuant to the Constitutions and law of both New York State and the United States; suffered the damages of having to retrieve his towed vehicle, reflected in a receipt from Tuxedo Autobody, Inc., dated December 4, 2006, a copy of which is annexed hereto as Exhibit D; suffered the consequences of being falsely arrested and falsely charged; and sustained the damages of incurring legal fees for legal counsel to represent him in defending against these unwarranted charges. All of the foregoing caused the claimant to sustain injuries and personal injuries.

8. Upon information and belief, said Police Officer and/or Sergeant notified the Delaware County Sheriff regarding such arrest, resulting in an Order being

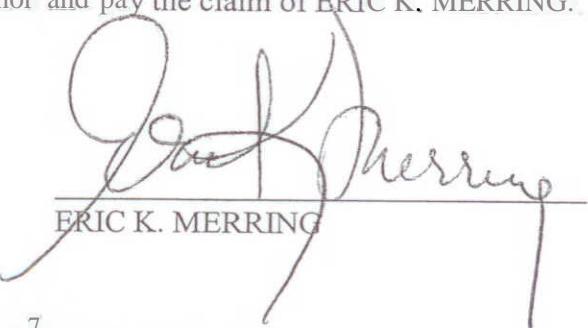
issued by a Delaware County Judge, a copy of which is annexed hereto as Exhibit E, suspending claimant's pistol permit, reflecting a conspiracy on the part of said officers to deprive claimant of his civil rights, his rights under New York State and federal law and the New York State and United States Constitution.

9. The said personal injuries and damages were caused wholly and solely as a result of the intentional unlawful acts of the members of the Town of Tuxedo Police Department, and the negligence of the said Department and the Town of Tuxedo in that its agents, employees, and servants, failed to take proper precautions to ensure that such illegal detention, arrest, and search, did not take place, and that the illegal and false arrest not occur, and that their personnel were not properly trained and supervised in connection with the lawful manner in which such matters should be handled.

10. Claimant solely by reason of the illegal acts and misconduct of the Town of Tuxedo Police Officers and the negligence of the Town of Tuxedo as aforementioned sustained the following injuries: embarrassment and public humiliation; unlawful deprivation of his personal property and unlawful detention of his person; false arrest in violation of his rights under New York State and Federal law and the New York State and United States Constitutions.

WHEREFORE, claimant requests that the said Town of Tuxedo Police Department and the Town of Tuxedo honor and pay the claim of ERIC K. MERRING.

Dated: Poughkeepsie, New York  
February 8, 2007



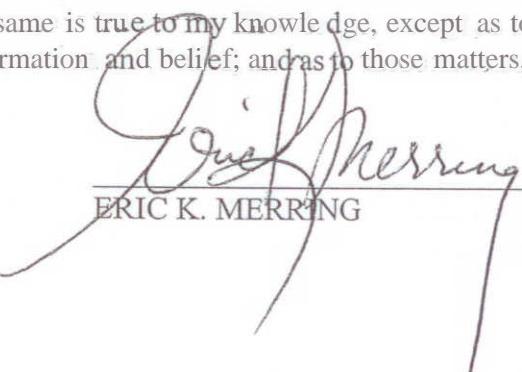
ERIC K. MERRING

**VERIFICATION**

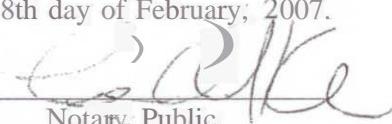
STATE OF NEW YORK )  
                                )ss.:  
**COUNTY OF DUTCHESS**)

**ERIC K. MERRING**, being duly sworn, deposes and says:

I am a claimant in the within action; I have read and know the contents of the foregoing NOTICE OF CLAIM; and the same is true to my knowledge, except as to the matters therein stated to be alleged on information and belief; and as to those matters, I believe it to be true.

  
Eric K. Merring

Sworn to before me this  
8th day of February, 2007.

  
Lee David Klein  
Notary Public

LEE DAVID KLEIN  
Notary Public, State of New York  
Qualified in Dutchess County 12  
Commission Expires Oct. 14, 20



STATE OF NEW YORK

COUNTY OF ORANGE

TOWN COURT

TO W\_N of UXEDODefendant: NAAlleged Victim: NA

(Relationship to alleged victim)

(Relationship to defendant)

THE PEOPLE OF THE STATE OF NEW YORK

VS.

Date of Birth

ERIC K MERRING

1210311969

Defendant(s)

## INFORMATION

BE IT KNOWN THAT, by this INFORMATION, A DELIA,  
 as the Complainant herein, STATIONED at UXEDO TOWN POLICE DEPT,  
 accuses the above mentioned Defendant(s), with having committed the MISDEMEANOR,  
 of CRIM POSS WEAP-4TH DEG in violation of Section 265.01,  
 Subdivision \_\_\_\_\_ of the PENAL Law of the State of New York.

That on or about 1~04~12~0~0~6 at about 09:08 AM,

in the TOWN of UXEDO, County of ORANGE, the defendant(s)

A PERSON IS GUILTY OF CRIMINAL POSSESSION OF A WEAPON IN THE FOURTH DEGREE WHEN: (I) HE POSSESSES ANY FIREARM, ELECTRONIC DART GUN, ELECTRONIC STUN GUN, GRAVITY KNIFE, SWITCHBLADE KNIFE, PILUM BALLISTIC KNIFE, METAL KNUCKLE, KNIFE, CANE SWORD, BILL Y, BLACKJACK, BLUDGEON, METAL KNUCKLES, CHUKA STICK, SAND BAG, SANDCLUB, WRIST-BRACE TYPE SLINGSHOT OR SLUNG SHOT, SHIRKEN OR "KUNG FU" STAR.

AT THE AFOREMENTIONED DATE AND PLACE THE DEFENDANT DID IN FACT POSSESS A GRAVITY KNIFE IN HIS LEFT FRONT POCKET OF HIS JEANS, AS WELL AS A BILLY CLUB UNDER THE FRONT PASSENGER SEAT OF HIS VEHICLE. ALL CONTRARY TO THE PROVISIONS OF THE STATUTE IN SUCH CASE MADE AND PROVIDED.

The above allegations of fact are made by the Complainant herein on direct knowledge and/or upon information and belief, with the sources of Complainant's information and the grounds for belief being the facts contained in the attached SUPPORTING DEPOSITION(S) of:

WHEREFORE, Complainant prays that a Warrant be issued for the arrest of the said Defendant(s).

-OR--

WHEREAS, an Appearance Ticket was issued to the said Defendant, directing him to appear before this court at 04:30 PM on DECEMBER 28, 2006.

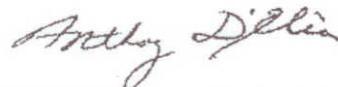
In a written instrument, any person who knowingly makes a false statement which such person does not believe to be true has committed a crime under the laws of the State of New York punishable as a Class A Misdemeanor. (PL 210.45)

Affirmed under penalty of perjury

this 4<sup>th</sup> day of DECEMBER, 2006

--OR--

Subscribes and sworn to before me this \_\_\_\_\_ day of  
\_\_\_\_\_, 20\_\_\_\_



COMPLAINANT -

## APPEARANCE TICKET\*

Issued To:	ERIC K MERRING	12103/1969
NAME OF DEFENDANT		DATE OF BIRTH
343 BOB HOLLOWAY RD STREET AND NUMBER	DELANCEY	NY STATE
		13752 ZIP CODE

You are hereby directed to appear in the court described below on

12128/2006 at 04:30 PM

in connection with your alleged

commission of the offense of CRIM POSS WEAP 4TH DEG contrary to the

provisions of section 265.01 of the PENAL law.

Name of court TUXEDO TOWN COURT

Location of court 1 TEMPLE DRIVE BOX 605 TUXEDO NY 10987

• NOTE: If you fail to appear on the date and at the time indicated, the court may issue a summons or warrant for your arrest (Criminal Procedure Law Section 150.60).

If you have posted bail, the bail will become forfeit upon your failure to comply with the directions of this ticket (Criminal Procedure Law Section 150.30).

Issued and subscribed by:

~~ 0024  
SIGNATURE OF MEMBER SHIELD

TZS / DIVISION/PRECINCT

12104/2006

DATE ISSUED



New York State - Department of Motor Vehicles

UNIFORM TRAFFIC TICKET

POLICE AGENCY

MDT200533K

To be completed by Police Officer  
and given to Motorist!

Name (Last, First, Middle Initial)		First Initial	M I K
MERRING		ERIC	
Address		Apt No.	Phone No. & Ext.
343 BOB HOLLOWAY RD			(Area Code) _____
City	State	Zip Code	Owner Operator
DELANCEY	NY	13752	<input checked="" type="radio"/> O
Date of Birth		Year	Make
NY	12/03/1969	1987	CADI
Plat No.		Reg. No.	Registration Expires
CSE5066		NY	01/19/2008

THE PERSON DESCRIBED ABOVE IS CHARGED AS FOLLOWS:

Date	Mo/Year	Violation of
9:03 AM	12/04/2006	NY: V AND T LAW
Description of Offense		Time Misd
SPEED OVER 55 ZONE		72 b5/Hu
Place of Occurrence		US DOI
RT 17 SIB		Com Veh Bus Haz Mat
City/Town		Hw. No. Lorry
TUXEDO, TOWN OF 3665		17 3665
County		Hwy. No. HC-RI
ORANGE		03565
Alleged Violation		Coal-Atfrm'd 011ASRgr
		12/04/2006 1
		7/2/Text 1- PATROL
		Bao:lg:Sh:atl 0024
Signature		
Officer's Last Name DELIA		
Rank or Title		
R&d/Office-Signature		
THIS MATTER IS SCHEDULED TO BE HANDLED ON THE APPEARANCE DATE BELOW		

TUXEDO TOWN COURT

Address: 1 TEMPLE DRIVE BOX 605

City	State	Zip
TUXEDO	NY	10987

(1) RETURN BY MAIL BEFORE OR IN PERSON ON:

Date: 01/11/2007 Time: 4:30 PM

A PLEA OF GUILTY TO THIS CHARGE IS EQUIVALENT TO A CONVICTION AFTER TRIAL. IF YOU ARE CONVICTED, NOT ONLY WILL YOU BE LIABLE TO A PENALTY, BUT IN ADDITION YOUR LICENSE TO DRIVE A MOTOR VEHICLE OR MOTORCYCLE, AND YOUR CERTIFICATE OF REGISTRATION, IF ANY, ARE SUBJECT TO SUSPENSION AND REVOCATION AS PRESCRIBED BY LAW.

Upon conviction, you may be subject to a mandatory surcharge in the amount prescribed by law.

Failure to appear to respond to this result in the default of your arrest or suspension of your driver's

## TO PLEAD BY MAIL (NOT TO BE USED FOR MISDEMEANORS)

- If you are pleading "GUILTY" by mail, place an "X" through SECTION B, then complete and sign SECTION A.

- If you are pleading "NOT GUILTY" by mail, place an "X" through SECTION A, then complete and sign SECTION B.

- Mail this form to the Court noted on this ticket by Registered, Certified, or First Class Mail, with Return Receipt Requested.

- DO NOT use this form for Misdemeanors or for a third or subsequent speeding violation in an 18 month period; instead, you must appear in the Court noted on this ticket in person.

- If the Court denies your plea, you will be notified by mail to appear in the Court noted on the front of this ticket.

## SECTION A - PLEA OF GUILTY

To the Court listed on the other side of this ticket:

resid-

I have been charged with the violation as specified on the other side of this ticket. I acknowledge receipt of the warning printed in bold type on the other side of this ticket, and waive arraignment in open court and the aid of an Attorney. I plead GUILTY to the offense as charged and request that this charge be disposed of and a Major penalty waived by the court.

Additionally, I make the following statement of (e)(p)onation (optional):

All statements are made under penalty of perjury.

Date: Signed:

## SECTION B - PLEA OF NOT GUILTY

The following notice applies to you if the officer did not issue you a supporting deposition with your ticket.

NOTICE: YOU ARE ENTITLED TO RECEIVE A SUPPORTING DEPOSITION FURTHER EXPLAINING THE CHARGES PROVIDED YOU REQUEST SUCH SUPPORTING DEPOSITION WITHIN THIRTY (30) DAYS FROM THE DATE YOU ARE DIRECTED TO RESPOND TO THE COURT NOTED ON THE OTHER SIDE OF THIS APPEARANCE TICKET. DO YOU REQUEST A SUPPORTING DEPOSITION?

Ves  No  O

SUPPORTING DEPOSITION PROVIDED WHEN THIS TICKET WAS ISSUED? NO  SPEEDING (Gen 101)  O  
GENERAL (Gen 101A)

Signature:

Address:

City: State: Zip: Code:

NOTE: Mail this NOT GUILTY Plea within 48 hours. The court will notify you by First Class Mail of your trial date.

APPLICANT'S UNDER 18 YEARS OF AGE  
WST SUBMIT NAME AND ADDRESS OF PARENT OR GUARDIAN BELOW.

Name of Parent or Guardian:

Address:

City: State: Zip: Code:

FAILURE TO ANSWER THIS TICKET WILL RESULT IN THE SUSPENSION OF YOUR LICENSE AND A DEFAULT JUDGEMENT AGAINST YOU.